

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 4940 of 2007(S)

OA.647/2005 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

PETITIONERS:

1. THE REGIONAL DIRECTOR,
MINISTRY OF COMPANY AFFAIRS,
SHASTRI BHAVAN, CHENNAI-6.
2. UNION OF INDIA, REPRESENTED BY
SECRETARY, MINISTRY OF COMPANY AFFAIRS,
GOVT. OF INDIA, NEW DELHI.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG

RESPONDENT:

ASHIF MOHAMED ASHROF,
S/O.LATE P.A.MOHAMED ASHROF,
49/711A, CORPORATION OF COCHIN,
MUNDAKKAL ROAD, ELAMAKKARA, KOCHI-26.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C).NO.4940 OF 2007

Dated this the 26th day of February, 2007.

JUDGMENT

Koshy, J.

Respondent is the son of the employee of the appellant who died while in service on 10.11.1999 as a Duftry in the Office of the Official Liquidator, High Court of Kerala, Ernakulam. He applied for compassionate appointment on 5.7.2001. He was informed that his application for appointment on compassionate ground will be considered in due course. Thereafter he made several representations. The Tribunal by order in O.A.752/2004 directed first respondent to consider his application. According to the petitioners the reason for rejecting his application even though he is eligible for compassionate appointment was that there was no vacancy to take him. He was informed that the case will be considered in future vacancies. The Tribunal after considering the contentions directed the following.

6. The existence of the vacancy as well as the consideration of the application against that vacancy are matters of record, which is borne out from the pleadings in this case. Therefore, it was incumbent on the respondents to consider the applicant for the vacancy which arose in June 2002 and to communicate a final decision in the matter with due regard to the suitability. It has also been brought out that another vacancy arose on 6.2.2004 nothing has been stated why the applicant's case could not be considered in that vacancy also despite the directions of this Tribunal in O.A.752/04, vide order dated 15.10.04.

7. To sum up, I find that the impugned order is issued not in accordance with the rules, instructions and guidelines under the scheme for compassionate appointment and it is quashed. Respondents are directed to consider the case of the applicant and appoint him in accordance with the rules to the vacancy which arose in June 2002 or in February 2004, as the case may be or in any other existing vacancy, and in case all these vacancies had already been filled up, in the next arising vacancy.

There is only a direction to consider the application filed by the first respondent. No interference is warranted under Article 226 and 227 of Constitution of India.

Writ petition is dismissed.

J.B.KOSHY, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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